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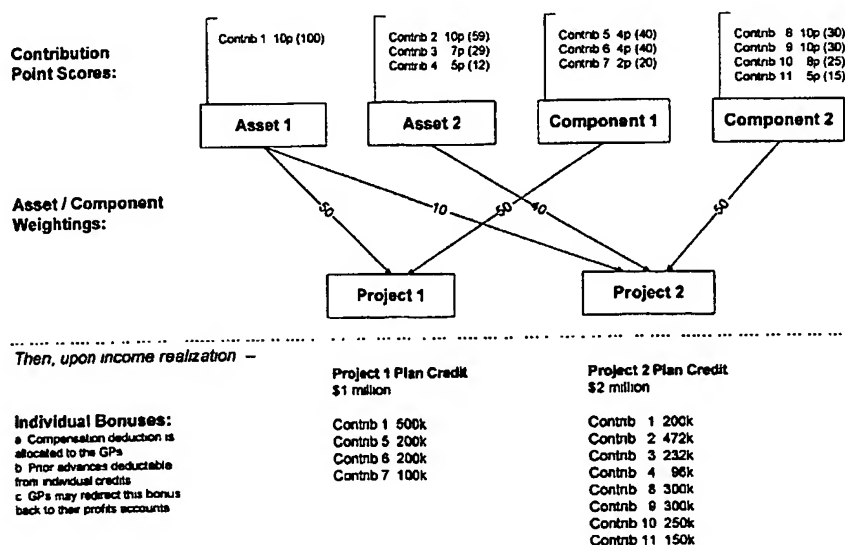
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(54) Title: INCENTIVE COMPENSATION SYSTEM AND METHOD



(57) Abstract: A computer system and method are provided for determining and computing executive compensation (figure) arising from a realization event. System participants input notable events and ideas into a history database (figure). Based on the events recorded in the history database, each contribution is assigned a weighing factor score (figure), according to a predetermined scoring system (figure). Contribution scores (figure) are attributed to components of the final project (figure) valuation or income stream. A percentage of the profit or wealth created by the project (figure) is attributed back to the participants based on their contribution scores.

WO 01/11501 A1

INCENTIVE COMPENSATION SYSTEM AND METHOD

BACKGROUND OF THE INVENTION

1.1. Cross Reference to Related Applications

The present application claims priority under 35 U.S.C. § 119(e) of U.S.

5 Provisional Patent Application No. 60/147,841 filed on August 9, 1999, the disclosure of which is expressly incorporated by reference herein in its entirety.

1.2. Field of the Invention

This invention pertains to a computer-based process for recording, computing, and allocating incentive compensation in business transactions.

10 More particularly, in a compensation management system it is desirable to employ a flexible weighting system for contributions by the participants in a given project, which can then form the basis for awards of incentive compensation based on the participants' relative scores.

SUMMARY OF THE INVENTION

15 The present invention constitutes a system to allocate incentive compensation in an efficient, orderly, and fair manner.

Other exemplary embodiments and advantages of the present invention may be ascertained by reviewing the present disclosure and the accompanying drawing.

BRIEF DESCRIPTION OF THE DRAWINGS

20

The present invention is further described in the detailed description which follows, in reference to the noted plurality of drawings by way of non-limiting examples of certain embodiments of the present invention, and wherein:

FIG 1 shows a simplified example of a calculation for the point system for
25 allocation of compensation under the present invention.

DETAILED DESCRIPTION OF THE EMBODIMENTS OF THE INVENTION

2. Problem / Background

Many human endeavors require a group of people working together to produce an
30 economically valuable result. The problem then arises how to allocate the financial or

other benefits which result from these activities back to the people who made the contributions.

This is sometimes called the “allocation of joint gains” problem, and it has traditionally been difficult to solve, because (a) there are usually many different inputs and stages to create a finished solution, and (b) inequalities of bargaining power cannot
5 generally be divorced from the equation. Whenever 2 or more people collaborate on something, there may be various ways to allocate the resulting gains.

At the simplest level, in a master-servant (or slave) relationship, all of the “increase” resulting from the servant’s efforts is allocated to the master. This is standard
10 in most ordinary employment relationships, and is simple and efficient to administer.

Employment may be thought of as a relationship wherein the employer agrees to make wage or salary payments on a regular schedule, in return for the employee’s time and effort during fixed hours. In effect, the employer assumes the cash flow risk of “making payroll,” thereby allowing the employee to plan his life (mortgage payments, etc.) on a
15 regular fixed basis, in return for which the employer takes back all other economic gains resulting from the relationship.

This bears some resemblance to a fixed/floating interest rate swap, wherein one party agrees to make fixed and certain payments, in return for variable returns from the other. During some time periods, the employee may be much more productive than others,
20 but he gets paid the same every payday. As with financial assets, so also with human assets, it is far less risky to hold a portfolio of different risky assets, since the chances of a big loss wiping out other gains goes down across many such assets. So likewise with a team of employees, the chances of loss due to the failure of one is greatly reduced. Also, there is the potential synergy benefit from many skills and minds working in concert to
25 devise and execute more complex business strategies.

Individual employee and manager creativity is vital in the modern economy, because continual innovation is required to produce product and service differentiation, which can in turn lead to higher pricing power and superior financial performance. Financial capital generally flows to companies that exhibit superior financial performance,
30 etc.

Often the employee is merely performing a readily substitutable function, and not adding any managerial or inventive talent, in which case fixed and limited compensation with a small performance bonus is appropriate. However, in many cases the employee will be adding managerial or creative talent, in which case the employer may be motivated to provide some "incentive compensation," to secure more diligent and creative effort. Such incentives may include:

Discretionary bonus, typically payable at year end out of a fund set aside for a given class of employees, if the company has had a profitable year, or if it feels a need to retain certain key employees,

Non-discretionary bonus, which describes many sales commission arrangements. If the employee meets or exceeds a certain sales quota, then a pre-determined payout will be made; typically the sales quota will be increased if the employee reaches a higher volume of sales, to reflect the fact the selling is now easier, as customers have become accustomed to buying in larger volumes, so the commission mainly reflects new market development and expansion effort by the employee. That is, a new sales person hired tomorrow and placed on the same accounts might be able to "count on" selling at least what you sold last year, so why pay a special incentive for merely reproducing what any qualified person could do?

Objectively linked bonus plans may award compensation to an employee based on overall company performance. For example the employment contract of Michael Eisner, CEO of Disney, awards him an annual bonus equal to X% of corporate profits above a certain minimum return on shareholder's equity, as computed according to a given formula.

Stock options and other equity participation plans, grant to employees stock options, phantom stock, or stock appreciation rights whose value is linked to the company's stock price. For a non-public company, a formula will be used, and/or the opinion of an investment banking firm as to what the company is worth. These do not require immediate cash payouts to fund them, but are relatively dilutive to the company since most employees simply sell their stock when the options mature, forcing the company to buy it back in the marketplace to compensate for the dilutive effect. Hence it

is often more efficient to grant “stock appreciation rights,” which can give the same result with less effort, rather than actual stock options.

Depending on the relative bargaining power of the employer and employees, these profit allocation plans may be subject to varying degrees of contract negotiations. The
5 highest rank executives, who are expected to make the most difference in corporate performance, often get the highest rewards and most extensively negotiated compensation packages, whereas other executives and staff typically participate in one or more standardized plans, that are designed to be attractive for recruiting talented personnel, but are less negotiable.

10 2.1. Some Common Abuses

Incentive compensation is unregulated, and hence can be subject to various abuses and manipulations that can benefit certain individuals in the short term, but are detrimental to long term creation of shareholder value.

A long series of stages and steps must be followed to generate value from an idea,
15 and different people will typically be better at handling different aspects of this development process. Hence, the concept will often pass through several different sets of hands before it sees final implementation and revenue generation.

During this developmental process, it is relatively easy for unscrupulous individuals to (a) make false statements about the prospective value of the project and each
20 individual’s relative contribution, and (b) to engage in abusive tactics of reassigning the project to different personnel, or dissolving and reconstituting the project, or firing or reassigning the creators to irrelevant duties, so that persons other than the real creators can claim to be entitled to any incentive compensation from the subsequent success of the project.

25 Such abuses are easier than is commonly believed, due to well established legal rules. For example the business judgment rule is a principle of corporate law that courts will not review “good faith” decisions of managers absent proof of self-dealing in a material corporate transaction. Courts are deemed not equipped to second-guess managers, and will not step in to manage the company for them, absent some gross immediate harm
30 to the shareholders. Early stage projects, which have substantial profit (new revenue) and

bonus potential are too invariably small in financial terms to be material to the company's ongoing operations. Also the only people who could reasonably sue are larger shareholders, but most large shareholdings are in the hands of institutional investors (insurance companies, pension funds, etc.) which typically hold the shares on behalf of many smaller investors, and do not get involved in management, unless the company is clearly starting to fail. By the time such a failure is noticeable, it will involve large scale ongoing operations, not new development work.

In addition, there is an immunity from suit for defamation in an employment context. Under this principle of tort law, no employee can sue another for any defamatory statements (libel, slander, false light) made in an employment context. This is deemed necessary to facilitate full, frank, and immediate communication within the company, rather than asking the slow and clumsy judicial process (which often takes years) to intervene in business management. The theory is that senior managers and shareholders who might be harmed by bad or lying behavior will police it. Suits for wrongful termination, which are eroding the "employment at will" doctrine, tend to be based on specific factual allegations (e.g., of racial bias), not on words spoken by other employees. This "defamation immunity" can embolden and empower highly ambitious, competitive, and unscrupulous middle and senior managers to wildly and grossly distort the relative value of other employees' contributions, especially on early stage development projects, which involve new technologies and business models, and are difficult to evaluate in any case.

In any large company there will always be some mixture of "sheep" and "wolves" among the staff. Given that there is only so much time in one's career, it can difficult to be both an expert in new idea development and problem solving, and also in playing corporate politics and attending meetings, where new projects are being evaluated, funded, assigned, and evaluated. Time spent on "doing a good job" by being an expert in some problem domain, is time taken away from learning how to play the politics of the project assignment and performance evaluation game. Unfortunately, individuals who lack the ability to master a subject matter domain may be drawn into the management track, and some percentage of these may possess serious character flaws, and a propensity for lying

and abuses, which are then developed and magnified over time. Then, as noted above, the absence of any external review, which arises from the "business judgment rule" and the immunity from defamation suits, makes such abuses very difficult to redress. A manager who is inclined to lie about the value of contributions and abusively reassign projects need
5 only lie to a small number of people above him.

In the absence of a written contract and a deterministic (non-discretionary) bonus (incentive compensation) allocation scheme, the experts in new idea development and problem solving, are often woefully ill equipped to engage in corporate conflict with unscrupulous senior managers who have become skillful in misrepresenting facts and
10 opinions, and performing abusive staffing maneuvers (reassignments, staffing with their own allies, dissolution and reconstitution, etc.)

Although this conduct is reprehensible and unethical, it remains legal, and so cannot be called stealing, so it is termed grabbing here. It is a propensity of some highly competitive and unscrupulous staff and managers to grab value that has been created by
15 others using a variety of abusive management techniques, which it is a primary object of the present invention to address and remedy.

2.2. Problems Under Current Systems

As noted there is no practical way to secure external legal review of any claim for misallocation of small but extremely valuable new ideas, nor for defamation or false
20 statements in the workplace, that are non-material to corporate earnings. Also the shareholders, who have provided the capital for the business, and who are expecting to see a strong financial return, and who could in theory intervene directly to order reforms in the management process, tend to be extremely passive, and rarely take any action other than selling their stock in the public markets if earnings from existing operations seem
25 problematic.

If the stock price falls far enough, the company will typically be sold or acquired, or be subject to a shareholder proxy battle for control of the board of directors. This however, is an extreme outcome that is reached only after many well publicized management errors in existing operations. It would never be taken with regard to
30 management abuses in the new business development process.

More generally, the current system also places inordinate (and effectively unreviewable) power in the hands senior corporate managers, who notoriously use it in part to pay themselves enormous salaries and other forms of compensation.

It is not unusual for a financial company to pay out 40-45% or even up to 50% of its net income in bonuses and incentive compensation to its employees. after paying base salaries and all other expenses. The shareholders may feel this is an appropriate deal, because in many companies (and increasingly in the information age) much of the value of the company is derived from exceptional performance by highly talented individual employees and teams (human capital and intellectual capital), who are critically needed to produce an "increase" (return on investment) using the shareholder's capital.

The problem then arises how this 40-50% of net income is to be allocated within the corporation. As might be expected, the most senior executives, who often have a huge degree of influence over this and many other processes, may decide they are by far the most valuable employees, and allocate very large sums to themselves, constrained only by public opinion and possible board and shareholder approval, which is rarely denied when the company is doing well, and often even when it is not. This has led to a steady upward ratcheting (inflation) in CEO salaries and compensation, as the pool of other comparable CEO packages continues to rise.

These 2 problems, the overpayments to corporate CEO's, and misallocation of incentive compensation among mid-level managers and creative staff, are both destructive to shareholder value. In the first case because excessive value is being paid to CEOs which could be retained earnings or paid out to shareholders, and in the second because the wrong people are getting compensated for the critical new innovations that drive the company forward. The present invention deals mainly with the allocation of specific incentive compensation and does not directly address the CEO pay issue. However, it is anticipated that once the methods for handling the latter are delineated, these can in turn be further extended to handle the former as well.

2.3. Specific Operational Risks

More specifically, shareholders lose value in several important ways that can be measured using emerging operational risk management methodologies.

Opportunity Cost arises when valuable employees have their ideas grabbed, and either leave or stop being creative, rather than endure having more valuable ideas taken without adequate compensation. In this manner, although the shareholders may get their fair share of returns from a “grabbed” idea that is developed by others within the company, 5 they will be denied the upside on the next 10 or more ideas that same worker, or group, might have developed in the presence of a fairer compensation scheme.

Risk of other compliance violations is heightened, especially in a financial setting. When some managers or staff have just engaged in grossly deceitful and abusive conduct to grab large amounts of incentive compensation, although this in itself is unregulated and 10 thus strictly speaking “legal,” it is a short step to then turn around and engage in unethical conduct with client transactions and balance sheet funds, thereby creating a true regulatory, compliance, audit, or reputational problem. which may result in stiff penalties and loss of reputation.

It is a principal objective of an operational risk management and control system to 15 identify such risk bearing activities and cause them to either fix or control the risk, or be required to pay the premiums on an adequately sized insurance policy. Such premiums tend to be quite large, thereby forcing department management to give serious consideration to implementing the reforms.

It is a marketing objective of the present system to further quantify these risks and 20 bring them to the attention of auditors, corporate boards, and major shareholders, etc. to induce them to see the virtue of properly and fairly assigning incentive compensation back to the creators of value, so as to ameliorate these risks.

Although it has traditionally been deemed most transactionally efficient to assign all the “increase” to the employer, in return for fixed and relatively certain salary 25 compensation to the employee, recent advances in computer and communications technologies now make it feasible to actually solve the problems associated with making a more complex and much fairer allocation.

The critical need for this improvement arises because under the traditional system, where the “employer” retains 100% of the benefits, there is in fact already a crude 30 allocation process in place, generally known as an “incentive compensation system,”

which does in fact attempt allocate a significant fraction of the resulting wealth and income back to the managers of the company and its departments, but due to chronic maladministration, this system has been subject to notorious abuses, which are beginning to exact a significant penalty in large organizations. To survive and grow in the information age they need to increase the rate of product innovation, but they are being held back by the difficulty of managing the incentive compensation process. Therefore, addressing these problems will promote stronger shareholder value and permit our large organizations to retain their vitality in an era of accelerating change.

2.4. The Innovation Process

- 10 The innovation process includes: (a) patent protection phase, (b) funnel phase, (c) s-curve phase, and the final steady state phase.

The present disclosure is directed mainly toward patent protection phase, but the same concepts can be applied equally well to other phases.

3. Summary of the Invention

- 15 The present invention is related to a series of business systems and procedures to be implemented using digital computers, electronic communication networks, digital cryptographic certificates, workflow process methodologies, and other technologies to capture, analyze, and manage data relevant to the process of allocation of incentive compensation in a business organization.

20 3.1. Timestamp Database

- Each enterprise or department will create and operate a timestamp database for submission and affirmative dating of innovative and productive ideas. Alternatively, the timestamp database function could be outsourced to a digital data warehouse provider, possibly established by a group of banks to handle their document archiving and workflow repository requirements. Whether in house or outsourced, the timestamp database will be maintained using secure, available, access controlled, recoverable methodologies.

- Each submitter will preferably sign their submission using digital signature technology, and receive in return a digital timestamp certificate (such as a hash-chain certificate of Haber and Stornetta) as proof of the date-time and exact content of their submission.

They will also be advised to keep a backup copy of their submission, in the remote event that it is lost or altered by the system, and may in addition, wish to submit it to multiple such systems under different control, to maximize the probability that the original document which matches their timestamp certificate can be accurately reconstructed, if
5 need be, potentially many years in the future.

The system will preferably mail (or e-mail) to each submitter each month a statement of all idea titles and time stamp data for that month's submissions, along with any pending expirations of self-imposed privacy controls (see below). The system will also provide screens and reports to allow the submitter to view any or all ideas within their
10 account. These screens will track ideas by their titles, subject matter class, related projects, cross-access granted to others, and so on, to give each submitter adequate control over their personal idea bank. Preferably this administration will be implemented using web screens and normal database design methodology.

3.1.1. System Setup

15 At the time of system initialization, and at intervals thereafter, the system administrator will establish a list of (a) approved projects and (b) qualified participants who are officially working on those projects and may submit ideas to the idea database for time-stamping.

Each qualified participant will receive a digital ID or other computer based
20 authorization (such as a password) that permits them to submit their ideas to the timestamp database for attribution to themselves, with respect to one or more projects.

Participants may grant each other mutual access to early stage idea-bases, prior to formal approval or funding, and may work together in spare time to further elucidate a given concept. In fact the present invention greatly facilitates such collaboration, by
25 greatly reducing the risks to the participant of having his ideas grabbed or misattributed.

3.1.2. Project Types

Projects may be officially funded and staffed development activities, or they may be setup on request as the personal accounts of creative people, wherein they may deposit any interesting and potentially valuable ideas, which may not be related to a specific
30 currently funded project.

Projects may be of several different grades including:

- miscellaneous ideas of an individual designer
- body of unfunded ideas further developed by an individual or group
- funded seed or incubator development project with one or more paid staff
- 5 fully funded and staffed product development project
- growth business activity
- mature business activity

Ideas which constitute minor enhancements to mature business activities may be accorded a lesser weight, because even if they generate significant revenue, they do not generally
 10 make the difference between success or failure to establish an entirely new market, nor do they create significant new equity market value. By definition a mature process is already more or less complete, and most enhancements are merely incremental and nice to have.

3.1.3. Participant Types

Participants may be of several different grades, such as:

- 15 design engineer or system architect
- implementation staff
- outside design or implementation consultant
- friend of the project / outsider having relevant experience
- management, same project
- 20 other support staff, same project
- other different but related project
- other different and unrelated project
- production worker
- sales or field support staff
- 25 customer's engineer or analyst
- customer end-user or executive
- non-employee / random submission from outside the company

In the case of individuals submitting ideas from outside the formal system, or especially outside the company, there will be a designated administrator who will act on
 30 their behalf and enter the submission into the timestamp database for them.

3.1.4. Selective Visibility

Once he or she has entered an idea, a submitter may elect to:

keep the idea private to themselves for the time being,

perhaps up to a preset maximum of 90 days

5 share the idea with a limited group of colleagues,

share it with all members of a given project team, or

make it public to a wider community within the enterprise.

On one hand, the submitter might want to timestamp the idea to establish priority
in time, and fulfill obligations to disclose the idea as may be present in their employment
10 contract, but keep the idea to themselves as part of a strategy to allow themselves to get
credit for inventing the “really good” parts of the ultimate system later on. Alternatively,
they might feel more confident, having established their priority in time, to open up
discussion to a much wider group, knowing they will at least receive credit for the base
idea if others are able to fill out the practical details.

15 By protecting company inventors’ expectations to incentive compensation arising
from their ideas, one actually promotes sharing and more rapid evolution of the ideas.
Good fences make good neighbors.

3.2. Scoring Systems

The present invention will implement several scoring systems to provide adequate
20 consensus based or judgmental rankings and weightings for each contribution, to aid in the
determination of how much incentive compensation should be allocated back to the person
who originated it.

3.2.1. Idea Type Scoring System

Not all valuable ideas actually represent workable solutions to problems. Some
25 important general grades of ideas include:

notion that a suitable or relevant problem even exists

posing a general question about possibility or feasibility

posing a very specific “well specified” problem or question

answering that question in a general way

30 answering that question in a specific practical way

Many ideas already exist in the prior art, including published literature, conference proceedings, product literature, etc. Generally, such ideas will be known to experts in the field, and hence little or no credit can be given for suggesting them. However, novel uses or interpretations of pre-existing ideas, which might produce patentable claims when
5 combined with other new ideas, may well constitute significant contributions.

3.2.2. Idea Importance Scoring System

Not all problem solutions are of equal importance. Some general importance levels include:

Fundamental breakthrough concept / paradigm shift / "market break."

10 More practical version of fundamental concept, e.g., major efficiency or architectural enhancements.

Nice features that make the system more usable and workable, e.g., conventional mopping-up operations to build a complete system.

For example, one might assign weightings of 10, 5, and 0.5 to the above categories,
15 so that it takes 20 nice features to equal one "market break" paradigm shift. These weightings will be subject to continuing review and discussion, and may be adjusted from time to time.

The system will have the capability to restate the weightings for a given project retrospectively "as of" a given date, if the group or enterprise agrees to a backward
20 revaluation of contributions. Alternatively, it will also have the capacity to maintain several sets of weights going forward, to allow changes in the weighting scheme related to newer ideas, while retaining the previously agreed weights for previous ideas.

Please note that at this stage one is only ranking the relative novelty or creativity of the idea, not its economic value. That will be determined later based on actual revenues
25 from patent licensing, product sales or service fees and attributed back to those features deemed to have generated the revenue. An idea which is ranked high as to innovation might still make little or no contribution to revenue flowback, if that idea is simply not employed in the production system or final product, or licensees decline to license that claim or system feature when offered, or service users decline to avail themselves of that
30 system function.

3.2.3. Idea Utilization Scoring System

At the first stage of innovation, which is generally patent protection, it is relatively easy to see whether an idea has been utilized by judging whether it is present in an issued claim of a patent, and whether it constitutes the heart of that claim, or merely an element.

5 However, the present invention is not limited to (a) patentable ideas, because these same principles can also be applied to trade secrets, know-how, designs, slogans and so on, or (b) to finished products or services, since they can also be applied to management and production processes.

10 In the case of a production process, a periodic review of that process may reveal that an idea has been used, and a cost-benefit analysis of the same process may reveal that the idea has generated a cost savings or price enhancement of \$X million per year, then it is a simple matter to allocate some fraction of that revenue, at least for the first year or so, back to the submitter as incentive compensation, whether or not the idea was patented or patentable.

15 A lesser weighting will probably be assigned to non-protectable ideas, because they are less likely to provide sustainable product differentiation justifying premium pricing and outstanding revenue generation. However, there is no reason not to reward employees for submitting ingenious non-protectable ideas. Also, many process ideas that merely result in a better quality product may be very difficult to reverse engineer, and
20 hence are easy to protect as trade secrets. These may have the same value as patents.

 A typical source of non-protectable ideas is to derive them from similar or analogous products, services, or production processes, such that from the standpoint of patent law they would be deemed obvious combinations of known principles, concepts, or features. However, it is indeed desirable to reward employees for speeding the transfer of
25 useful techniques from related areas as quickly as possible, to reduce costs and enhance quality.

 The potential bad motivations of managers or fellow employees should be kept in check by their general desire to make the patent as strong and broad as possible. It will be rare for a patent management process to omit a significant valuable idea from a patent as
30 part of a corrupt or unethical scheme to deny compensation to the submitter.

3.2.4. Revenue Attribution Scoring System

An innovative concept may be: sold or licensed as intellectual property, turned into a product or company with an equity value, or offered as a product or service with a revenue stream, which can be given a net present value.

5 Typically, there will be a bundle of many concepts being sold, either to an end user or an intermediate entity that uses the concepts to produce value that is realized in a later stage. Such a bundle of intellectual property rights is commonly called a "technology."

10 It is usually relatively easy to determine the total amount of compensation to be received for a given technology bundle. What is more difficult is to determine which ideas within the bundle were responsible for the economic return that is flowing back up the chain.

In the case of straight technology licensing or sale, or alternatively the sale of a product or service based on the technology, it is possible to attribute revenue to features or claims in several different ways.

15 Directly ask the purchaser or end user, perhaps using a questionnaire, which product features he uses or considers valuable, and especially which ones led him to consider buying the product.

Compare the product or service to the technology bundle to see which features are incorporated, and rank them in order of importance, using a panel of experts or end users.

20 In the case of process or production enhancements, perform an overall study of costs and quality, including reliability and accuracy, etc. and attribute some fraction of overall savings or efficiency back to specific enhancements.

3.3. Expert Judging Panels

25 At each step of the process, one will endeavor to create and utilize adequate scoring systems, business rules, and other heuristics, including artificial intelligence or automated configuration systems, where possible to increase efficiency and reduce the potential for human error and manipulation of the system and its outcomes. Description below reviews a range of possible abuses and motivations, and attempts to address as many of them as possible.

However, it will probably never be possible to eliminate a significant element of human judgment from the scoring and attribution systems described above. Hence explicit provision should be made for panels of expert arbitrators to review the rankings assigned to various ideas, and recommend changes where necessary, including upon request by a submitted who feels he or she was shortchanged, as a board of auditors who review such determinations on a scheduled, exception triggered, or random basis.

Initially, the panel of arbitrators will be the submitter's professional peers in their immediate workgroup. If the submitter is dissatisfied with the rankings or weightings assigned to a given contribution, then they can appeal to either (a) the entire work group or some panel thereof, or (b) an expert panel maintained within the organization, often a rotating pool of qualified professionals with relevant skills who are called on to resolve these kinds of disputes.

If the submitter is still dissatisfied, or perhaps believes the system was rigged to favor a few well placed professionals who are getting most of the incentive compensation, which is a not-uncommon problem in many large organizations, they may further appeal to an external panel of industry experts, who may review not only the case in question, but may also inquire into other rankings and weightings assigned on the same or other projects to determine whether there may exist any patterns of bias towards or against specific individuals or groups within the enterprise.

These innovations give a more practical effect to the arbitration clauses found in many employment agreements in this area. Rather than having to risk creating a major conflict with his superiors by invoking his right to a legal hearing in the event of disagreements, the employee has recourse to a variety of internal and external panels essentially at the touch of a button, and as a matter of right. This should (a) deter in-group co-workers from engaging in abusive practices to shift compensation to themselves, and (b) reassure submitters that their ideas will be given a fair hearing, thereby reducing their tendency to dispute the results.

Various methods may be provided to allocate the costs of these judging panels. Probably the most productive would be to charge them to the long term capital cost of the project, and regard them as the price of a conflict free workplace. If however, one or more

submitters are frequently and repeatedly requesting reviews that do not come out in their favor, the cost of the reviewer's time (plus an opportunity cost charge for the loss of their other work products) may be billed back to the losing complainant, generally as a charge against their present or future incentive compensation.

5 3.3.1. Background Note on Judging Panels

The idea for using expert judging panels is taken from recent reports of ESP experiments which have achieved high statistical hit rates. In one such experiment, the "ganzfeld," a receiver who is placed in a sensory deprivation environment attempts to receive an image transmitted by a sender at another location. Without the experimenters' knowledge, the sender selects one out of a group of four images, such as photographs or video clips, and attempts to send that idea or image to the receiver. The receiver then narrates their impressions during the session, which are taped and transcribed. The transcript plus all four of the images are given to an outside panel of judges, who each score them as to how closely they resemble the receiver's recorded impressions. The expected hit rate due to chance would be 25%. However, consistent scores above 30% have been achieved with many replications by different experimenters. These findings seem to demonstrate a bona fide effect worthy of further research.

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3.4. Project Life Cycle

At each phase in the project life cycle, there will be different participants, a different calculation of the economic value being added by the phase, and typically different classes of new ideas being suggested as new classes of implementation problems are being encountered. As noted the phases of a project include: (a) original R&D / IP-protection phase, (b) incubator / funnel phase, (c) s-curve phase, and (d) mature phase.

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3.5. Reversion of Undeveloped Ideas

Many inventors are reluctant to invent novel and potentially important technologies and then assign them to specific companies, because there is a very high probability that the company will fail to commercialize the ideas. Then equally commonly, the company will often refuse to negotiate the transfer of the ideas to another more qualified firm, and further when a project is canceled or abandoned, there is often no one within the company who is even in charge of managing unused or fallow intellectual property, who could

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negotiate with the inventor(s) and make a decision to part with them in exchange for reasonable compensation.

3.5.1. The Idea Bank

Therefore it is desirable to create one or more centralized "idea banks," employing
5 an enhanced version of the system described herein, where ideas (or prospective inventors) can be formally registered. Such idea banks might be operated by responsible parties, such as financial and banking digital document management service bureaus.

Upon going to work for a given company, an inventor or engineer might request that in the event that the employer failed to commercialize some inventions, for some
10 specified list of reasons, including bankruptcy, project cancellation, management turnover, etc. then after some specified time, or on the happening of some specified events, the intellectual property in the inventor's ideas would revert to the ownership and control of idea bank, which would then serve as a licensing agent for the company and the inventor, thereby giving effect to a "moral right" ("droit moral," similar to that existing for painters,
15 etc.) in the inventor to retain some control over his invention in the event the commercialization process at a particular company has failed.

The idea bank will intervene under contract to protect the interests of the inventor against malfeasance or nonfeasance by the company, which will otherwise deprive him of the legitimate expectation of incentive compensation from his idea, while simultaneously
20 granting to the company a fair share of compensation resulting from commercial development and exploitation of the idea, in accordance with the contributions, if any, made by the company to add value to the concept.

3.5.2. Substitution of Capital

Under the contract, the idea bank will attempt to identify a new and qualified
25 product development team at another company, or under the auspices of a different technology incubator. This can allow the invention development and commercialization process to proceed much as before, with merely a substitution of the source of capital funding.

In many cases, the expertise (human capital) needed to develop a given concept has
30 become the deciding factor, and the source of funds is largely substitutable, since funding

sources may sometime add little or no value other than cash itself. In that case, it becomes desirable to provide an automated means of project tracking that can allow the human capital providers to readily fire their funding source, and substitute a new one, to allow the project to continue with minimal disruption. In this manner, another of the seriously deleterious effects of corporate mismanagement can be addressed and remedied.

3.5.3. Global Multi-Party Extensions

From the foregoing discussion of multiple contributors with selective idea sharing, forward attribution of design features, backward attribution of revenue/wealth realization, independent judging panels, and substitution of capital, it will be apparent that the system can be extended globally across enterprises or to encompass a plurality of independent inventors, who can now collaborate more freely, without fear that their contributions will fail to be recognized or compensated appropriately.

3.6. IP Valuation as an Inverse of Risk

As a related matter, it is often considered extremely difficult to value intellectual property of all kinds, including patents, trade secrets, copyrights, etc. Indeed some authors have assigned this as a "problem for the 21st Century." The problem is non-trivial, since for many companies, such as Microsoft, the difference between tangible assets and market capitalization is enormous, and must be attributable to intellectual property. Yet under current accounting procedures, it is preferable to treat all IP creation as an R&D expense.

As a paradigm to attack this problem, an actuarial methodology may be useful, which is substantially the opposite of an insurance risk of loss database and premium estimation methodology.

With insurance, you are dealing with relatively infrequent but very costly risk events. The methodology involves accumulating a database of losses, and gathering data about each loss, to allow it to be classified and entered into a multivariate model. Then, data about an existing operation or situation is entered into the model, and an attempt is made to determine its similarity to prior situations in which losses occurred, and make an estimate of the probability and potential size of the loss, to be used as the basis for computing an adequate insurance premium.

With intellectual property, this methodology can be reversed. Here one is looking at a relatively small probability of a highly profitable revenue return event, the probability and size of which may be estimated by using a similar model. A revenue returns database can be constructed based on data collected regarding successful and profitable patents and intellectual property. Based on comparison with the characteristics of successful patents, an estimate can be derived of the potential value of a given patent.

Such a model might contain dozens of variables, and could form the basis for valuing intellectual property as a balance sheet asset in the 21st century.

4. Draft Board Resolution

The following represents a potential draft resolution by the Board of a Company to establish an Incentive Compensation Point System Plan:

4.1. General Description

All Company GPs and employees, plus designated consultants (when approved in writing) are eligible participate in an incentive compensation plan ("Plan") operated according to this Point System Policy statement.

The Plan defines for each participant a conditionally vested right to share in incentive compensation arising from his or her contributions to specific project components or assets.

Each contribution will be assigned a numerical weighting factor ("point value"), to be awarded to or among the individuals making, achieving, or performing it.

The Intellectual Property and Corporate Transaction Committees will review contributions of participants to both IP creation and deal/investment structuring activities, and relative component weightings.

The Plan will be administered by the Board of Managers, which shall hear appeals from IP and CT Committee decisions and shall retain limited discretion to modify an individual's point total for a given project or asset by up to 10% in special cases.

An individual's point interest in a given component or asset will immediately vest, but may be diluted if and as additional points are awarded to others for subsequent work on the same asset or project.

The participant's interest remains attached to the asset or project so long as it is controlled by the Company, and is subject to cancellation or forfeiture only in relatively limited situations (not, ordinarily, including termination of the participant's employment or consultancy with the Company).

- 5 Participants will receive cash bonus payments based on the points they hold that are attributable to projects experiencing realization events.

These payments will be offset against the GPs' profits allocations by the expedient of allocating the corresponding compensation deduction for the Plan to the GPs.

- 10 In most cases the amounts immediately available for distribution will be less than would be the case if the project experiencing a realization event were only required to repay its own invested capital, due to accumulation of unfunded losses in LP capital accounts from other Company projects, especially in early years.

Backward credits will be made from later project realizations to attempt to equalize benefits to participants on earlier projects, according to a formula.

- 15 Refer to **FIG 1** for a simplified point system example.

5. Definitions

Eligible Project means a project commenced and/or completed during a time frame specified by the Board in a particular revision of the Plan.

- 20 Eligible Participant means a person meeting criteria established by the Board, who accrued points on an Eligible Project under a particular revision of the Plan.

GP Credit Amount (GCA) means the amount, if any, available for credit to GP profits accounts from a realization event, after allocations for losses in LP capital accounts.

- 25 Plan Credit Percentage (PCP) means the percentage initially 75% set by the Board, to be deducted from the GCA of a project for credit to Plan participants (who will commonly, and especially at first, be GPs).

Plan Credit Amount (PCA) means, for a given realization, the product of PCP x GCA, the amount available for payment of bonuses under the Plan.

Full Credit Amount (FCA) means the PCA value that would have been achieved if the project were only required to repay its own capital costs.

Unfunded Credit Amount (UCA) means FCA - PCA, i.e., the balance still "owed" to project participants after payment of the project's PCA (or APCA).

Backward Credit Percentage (BCP) means the percentage initially 40% set by the Board, to be deducted from the PCA of a subsequent project, to be applied toward
5 reducing the UCA's (if any) from prior projects.

Backward Credit Amount (BCA) means, for a given realization, the product of PCA x BCP, the amount available for backward credit to prior UCAs, but not to exceed the total of all outstanding UCAs.

Adjusted PCA (APCA) means, for a given realization, PCA - BCA, the adjusted
10 amount actually payable to participants of the project having the realization.

"Officially Commenced" means, (a) for intellectual property, the date upon which the IP Committee added that project to an inventor's list of approved projects, and (b) for all other corporate development, the date a project received an approved budget or the end of the calendar quarter in which it first accumulated over \$20,000 of expenses.

15 "Substantially Completed" means, (a) for intellectual property, the date upon which a definitive patent application was filed, and (b) for all other corporate development, the end of the calendar quarter in which a spinout or other transaction is deemed to have occurred for tax purposes.

6. Example: 1999-2000 Plan Funding Provisions

20 Under the initial version of the Plan:

"Eligible Projects" means projects Officially Commenced during 1999 and Substantially Completed prior on or before 12-31-00.

The Plan Credit Percentage (PCP) for Eligible Projects will be 75%, regardless of the year of realization.

25 The Backward Credit Percentage (BCP) deductible from any later PCA to cover prior UCA's will be a maximum of 40%.

This BCA percentage can be increased (e.g. up to 100%) upon the written consent of two thirds of the points holders of the current project. Many points holders on the current project may also be holders of partially unfunded points on the prior projects,
30 which it is desired to close out by general consent.

If there is more than one outstanding prior UCA, and the current BCA is still insufficient to cover them, the Board may allocate available BCA between the prior UCAs in any proportions it believes, in its sole discretion, to be in the best interests of the Company and the Plan participants.

- 5 GPs of the Company may elect to retain their portions of any given PCA or APCA in their member profits accounts, rather than take the cash distribution under the Plan.

7. Project Credit Example

Project	Invested Capital	Revenue	LP Capital	GCA	PCA	BCA	APCA	FCA	UCA
1	500		-500						
2	500		-1,000						
3	500		-1,500						
1		4,000	1,500	1,000	750			1,050	300
4	500		1,000						
2		8,000	5,500	3,000	2,250	300	1,950	2,250	300

- 10 The Company funds Projects 1-3 and accumulates a deficit of \$-1,500 in the LP capital accounts.

Project 1 then experiences a \$4,000 realization event. The first \$1,500 is allocated to cover losses in the LP capital accounts.

The remaining \$2,500 is divided 60/40, with \$1,500 going to the LPs, and \$1,000 to the GPs. This is the GP Credit Amount (GCA).

- 15 From the \$1,000 GCA, the 75% Plan Credit Percentage is deducted, to form the Plan Credit Amount (PCA) of \$750, payable to points holders under the Plan.

However, if there had been no prior losses to deduct, the Full Credit Amount (FCA) would have been \$1,050 (which is 75% of 40% of \$3,500, the realization after repaying only the project's own capital costs of \$500.)

- 20 Hence, the PCA of \$750 is insufficient to cover this, leaving an Unfunded Credit Amount (UCA) of \$300.

Later on, Project 2 experiences a realization of \$8,000. Since there is no capital deficit, one merely deducts its capital cost of \$500, and the resulting \$7,500 is divided 60/40, with \$4,500 going to the LPs and \$3,000 to the GPs as the GP Credit (GCA).

From the \$3,000 GCA, the 75% Plan Credit Percentage is deducted, to form the
5 Plan Credit Amount (PCA) of \$2,250, payable to points holders under the Plan.

However, there is a prior Unfunded Credit Amount (UCA), so a Backward Credit Amount (BCA) is formed by deducting from PCA the lesser of 40% or \$300, in this case just \$300, which is applied to fund the prior UCA.

PCA is reduced by deducting BCA to form an Adjusted Plan Credit Amount, here
10 \$1,950 payable to points holders on Project 2.

However, the Full Credit Amount on Project 2 would have been \$2.250, so a new Unfunded Credit Amount (UCA) is established for funding by future realizations.

8. The Value Creation Process

Here begins a discussion of principles for assigning points and weightings to assets
15 and components. The actual point tables for the first version of the Plan are missing, and still being worked on. However, it is believed that the preceding 4 pages may provide a starting point for initial discussion of the Plan concept.

Some of the more important components and contributions in the early stage high technology development process include:

20 8.1. IP Creation

Identification of key problems to which solutions could be valuable and feasible.

Correct statement of a problem in a manner amenable to technical solution.

Origination of new fundamental technical design concepts (FTDC), whether or not immediately linked to a known problem.

25 Completing and rounding out FTDC's already created or purchased from others, including: inventing the rest of the system implied by the FTDC, and supervising scientific validation and correct implementation.

8.2. IP Management

Identification and evaluation of outside IP potentially meeting above goals, in lieu of or as a supplement to origination, including: acquisition of such IP under commercially reasonable terms, and due diligence validity searching.

- 5 Assembly and management of created and purchased IP to create a portfolio, including: prosecution management, including continuations, re-issues/re-examinations; and assembly of IP rights into "technology packages" for commercialization.

Devising and executing commercialization and licensing strategies, including: negotiation of individual licenses, and administration of licensing schemes.

10 8.3. Corporate Transactions

Articulation of business case for incubator project funding, including process / service model, potential market size and accessibility, business / revenue model, IP rights and potential/actual competition risks.

- Incubation project deliverables, including: due diligence on acquired IP (if any)
15 and finalizing acquisition, validation of business model and revenue estimates *, partner and customer identification and engagement strategies *, design and programming of demo/eval system *, identification / recruitment of potential key executives, marketing pitches to strategic partners and major customers. (* may be done by consultants).

- Spinout transaction deliverables, including: [a] documents: (1) business plan, (2)
20 PPM, (3) incorporation documents (4) asset and IP transfers, (5) ISOP, (6) employment agreements. etc., [b] identify and close first-round investors, and [c] post-spin out technical assistance and business support.

9. Point System Principles

- This point system defines for each participant a conditionally vested right to share
25 in incentive compensation arising from his or her contribution to a specific past project component or asset.

This right remains attached to the asset or project so long as it is controlled by the Company, and is subject to cancellation or forfeiture only in relatively limited fact based situations.

9.1. Component and Contribution Definition

During system setup and initialization, the Company will define an initial set of generic project components as well as expected contributions to each component.

Each potential contribution will be assigned a numerical weighting factor ("point value"), to be awarded to the individual making, achieving, or performing it, during the Plan period in question.

Tables of such point values for each generic component will be generally available to Company staff.

9.2. Project Definition

Each new project will have a pre-defined set of components, and management will appoint specific individuals to work on a given project and its various components.

Listings of relevant active projects, their defined components, and staff assigned to each, will be generally available to the staff.

A person not assigned to the project may still make and receive credit for a scoreable contribution, but this is assumed to be an exceptional event, since most project components require sustained effort, and would be difficult if not impossible to deliver unless one were officially assigned to work on them.

From time to time, management may define special tasks or components for a project, assign a suitable point value, and assign one or more persons to work on them. In an alternate version, appointment to special tasks might be subject to bidding, with the appointment going to the lowest bidder. This voluntary reduction of point values would not, however, diminish the total pool of incentive comp available for distribution from the project or asset

9.3. Scoring of Contributions

The notable contributions of each individual to each component will be recorded and scored to award them a tentative point value.

First each individual contributor will submit a self-assessment. These will be reviewed by the work group, and then subject to final review by the corporate committee with jurisdiction over that subject matter. Further appeals will be available to the executive committee, board of managers, and/or outside expert arbitrators. An alternate

automated system could facilitate submission of questions to expert panels (inside or outside), which may be decidable on very narrow grounds without hearings or oral arguments.

When two or more individuals jointly make a single significant contribution, the point value for that single contribution will be divided between them. They may further
5 subdivide those points among themselves as they may agree, or in the absence of any agreement, management may allocate them.

9.4. Component Weighting

Management will also, during system initialization, establish basic component
10 weighting guidelines.

For example certain components may be weighted differently than others, or may be deemed less difficult (due to being acquired in an almost finished state) or more difficult (as requiring unusual problem solving ability).

More importantly, there will often be several IP package components for a given
15 project, created by different teams of individuals, or acquired from outside, and in allocating IP related incentive comp, due consideration must be given to the relative contribution made by each IP package component.

Management is not bound by its initial component weightings, and reserves the right to re-weight based on retrospective assessment of actual difficulty, to minimize the
20 inadvertent creation of windfalls.

9.5. Forward Attribution

For each major project component, the total of all individual scores (after review and judging if any) will be summed, and then each individual's percent share in any incentive compensation eventually received from that component will be derived by
25 dividing his or her point total by the total number of points earned by all participants on that component.

An individual's point interest in a given component will immediately vest, subject only to cancellation or forfeiture due to fact based events as defined in Section 3.6.

9.6. Cancellation / Forfeiture

If a contribution is later invalidated (in the case of a patent claim) or specifically not incorporated into the asset or component, points for that specific contribution will be cancelled.

- 5 If a project or purchaser declines to take an asset or component, points associated with the asset or component will remain intact, but there will be no backward attribution of revenue or gain to the asset or component, nor to its contributors.

- 10 Assuming the remainder of the component or asset is still used in a value creation process, after eliminating the invalid or specifically declined features, then the rights of the remaining participants to receive a percent share of incentive comp will be determined by dividing their remaining point totals by the new point total for all remaining contributions to the component.

- 15 Also, the elimination of certain claims may cause the weighting for that component to be decreased, if in the opinion of management the component now contributes less to the overall value of the project.

- 20 If a patent claim is invalidated, e.g., due to non-patent prior art, but the idea was an original invention that conferred a market timing advantage, and was NOT subject to a countervailing patent claim, then consideration will be given to reducing the points awarded, rather than canceling them, because time to market value was in fact realized.
- 20 Points may also be forfeited as a penalty for "bad conduct" in connection with a particular project, including falsification of any document, or the making of any material false statement to or regarding any person or contribution, with the intent to alter the assignment of points or allocation of incentive compensation.

- 25 Special rules will apply if a member or employee is terminated for fraud, theft, etc.
- #### 9.7. Backward Attribution

Revenue attributable to company projects will in general first be used to return investor LP capital. After return of capital, profits will be shared 60/40, with investors receiving 60% and employees receiving 40% (the "carried interest").

- 30 Some but not all of this carried interest will be divided among employees (and former employees) according to their point weightings (individual points divided by total

points) in each project component, and the component weighting assigned to each component by management.

At the time of revenue realization, management may take notice that some project components have played a greater or lesser role than anticipated, and component weightings may be revised to better reflect their relative contributions. (Notably, certain IP components could become worthless, and others formerly considered peripheral could be deemed vital.)

Management will retain the discretion to adjust the final contribution scores and component weights by up to 10%.

It is noted that the foregoing examples have been provided merely for the purpose of explanation and are in no way to be construed as limiting of the present invention. While the present invention has been described with reference to certain embodiments, it is understood that the words which have been used herein are words of description and illustration, rather than words of limitation. Changes may be made, within the purview of the appended claims, as presently stated and as amended, without departing from the scope and spirit of the present invention in its aspects. Although the present invention has been described herein with reference to particular means, materials and embodiments, the present invention is not intended to be limited to the particulars disclosed herein; rather, the present invention extends to all functionally equivalent structures, methods and uses, such as are within the scope of the appended claims.

What is claimed is:

1. A method of computing and equitably allocating incentive compensation among a plurality of contributing entities wherein --
 - 5 • individual contributions are documented in a contributions database record including the content of the contribution, name of the contributor, and date,
 - contributions are allocated (scored) a point value dependent on the type and relative value of the contribution, according to a pre-determined scoring system,
 - each such contribution is attributed to one or more project components, and assigned a
10 percentage weighting, according to a pre-determined weighting system, wherein such percentages are subject to dilution as additional contributions are created, scored and attributed to the same component,
 - each such project component is attributed to one or more projects, and assigned a
15 percentage weighting, according to a pre-determined weighting system, wherein such percentages are subject to dilution as additional components are created, scored, and attributed to the same project,
 - upon income realization for a project, a pre-determined portion of the income produced
20 by the project is distributed to the contributing entities, according to the then computed percentage of value attributed to each component, and within each component, to each contribution by a contributing entity.

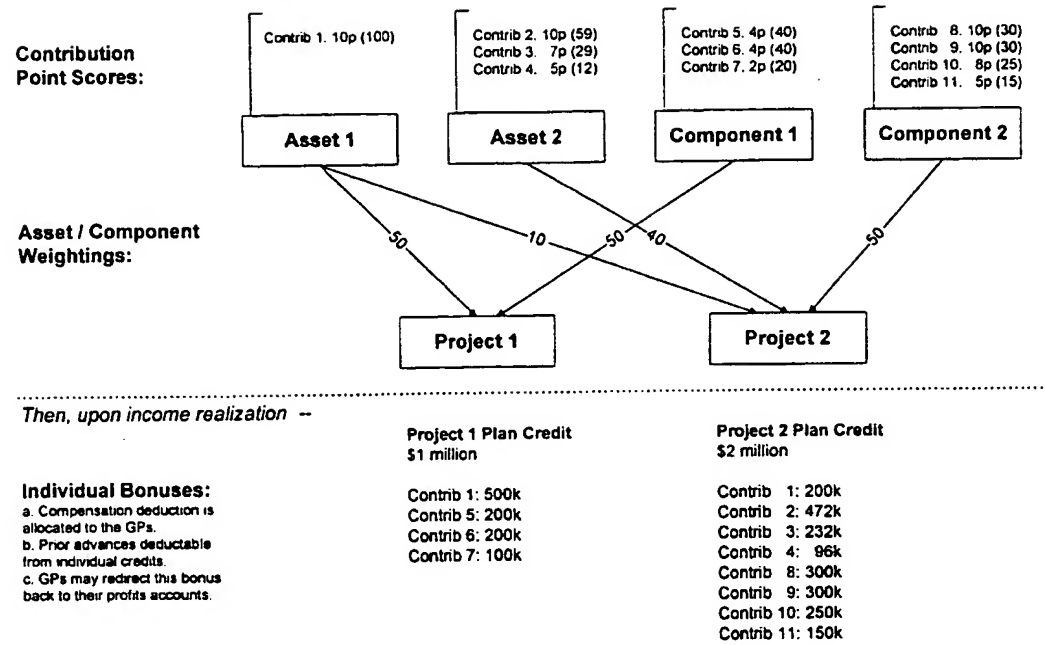


FIGURE 1.

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US00/21585

A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) :G06F 17/30

US CL :705/7, 11, 14; 700/91, 92

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 705/7, 11, 14; 700/91, 92

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

STN, WEST

weighting, scoring, grading, ideas, contributions, performances, employees, personnel, staff, workers, database, storing

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y,P	US 6,014,664 A (FAGIN et al) 11 January 2000, Figures 4 and 5.	1
Y	ANONYMOUS. Incentive compensation for Middle Market Commercial Loan Officers. Journal of Commercial Lending. February 1994. Vol 76. No. 6. entire document	1
A	GOLDWAG.W. When a Cash Incentive Demotivates your Staff. People Management. May 1997. Vol 3. No. 11. entire document.	1
A	ISKAT.G.J. What to do when Employees Resist Change. Supervision August 1996. Vol 57. No. 8. entire document.	1

☒ Further documents are listed in the continuation of Box C. ☐ See patent family annex.

* Special categories of cited documents:	*T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
A document defining the general state of the art which is not considered to be of particular relevance	*X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
E earlier document published on or after the international filing date	*Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
L document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	*G* document member of the same patent family
O document referring to an oral disclosure, use, exhibition or other means	
P document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search

05 OCTOBER 2000

Date of mailing of the international search report

14 NOV 2000

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INTERNATIONAL SEARCH REPORT

International application No.
PCT/US00/21585

C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	ANONYMOUS. Increased Employee Satisfaction may add Value. IRS Employment Review. November 1996. No. 620. entire document.	1
A	KLAIN.Z. Remuneration in the Czech Republic. Benefits & Compensation International. April 1995. Vol 24. No. 8. entire document.	1
A	RYAN.B. Kudos for Navy's SIMA, San Diego. Journal for Quality & Participation. September 1997. Vol 20. No. 4. entire document.	1
A	COPULSKY.E. Some Morgan Stanley Bankers Ruffled By New 'Star' System. Investment dealer Digest. Vol 63. No. 51. entire document.	1